

KAREN L. LOEFFLER
United States Attorney

GARY M. GUARINO
Assistant U.S. Attorney
Federal Building & U.S. Courthouse
222 West Seventh Avenue, #9
Anchorage, Alaska 99513-7567
Phone: (907) 271-5071
Fax: (907) 271-2344
gary.guarino@usdoj.gov

Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

RICHARD HELMS,)	Case No. 3:11-cv-00062-TMB
)	
Plaintiff,)	
)	MOTION TO AMEND CAPTION TO
vs.)	SUBSTITUTE AND NAME THE
)	UNITED STATES AS A PROPER
BRADLEY LOGAN, M.D. and NORTON)	DEFENDANT FOR NORTON SOUND
SOUND HEALTH CORPORATION, An)	HEALTH CORPORATION
Alaska Corporation,)	
)	
Defendants.)	
)	
)	

The United States of America, via counsel, moves pursuant to 25 U.S.C. §450f and 28 U.S.C. §§1346, 1442, and 2679(a), to amend the caption of this case to substitute and name the United States as the party Defendant in place of NORTON SOUND HEALTH CORPORATION (NSHC), an Alaska Corporation.

As set out in the Notice of Removal [Docket 1], the NSHC is an Alaska Native contractor funded and operated under an agreement between NSHC and the Department of Health and Human Services, Indian Health Service (DHHS/IHS), pursuant to the Indian Self-Determination

and Education Assistance Act (ISDEAA), 25 U.S.C. §450. *See* Declaration of DHHS counsel Meredith Torres [Docket 3]. With respect to the medical malpractice claims asserted by Plaintiff in this case, NSHC is deemed to be part of the Federal Public Health Service (PHS), pursuant to 25 U.S.C. §450f(d). Any civil action against NSHC involving such claims is deemed to be an action against the United States subject to the requirements of the Federal Tort Claims Act. 25 U.S.C. §§ 450f(d), 450(f) note; and 28 U.S.C. §§ 1346, 2679. The FTCA remedy against the United States is exclusive of any other civil action for money damages. 28 U.S.C. §§ 1346(b); 2679. Therefore, the United States moves this Court for an Order amending the case caption to substitute the United States as the Defendant in place of NSHC. A proposed Order is filed with this motion for the Court's review.

RESPECTFULLY SUBMITTED May 3, 2011, in Anchorage, Alaska.

KAREN L. LOEFFLER
United States Attorney

s/Gary Guarino
Assistant U.S. Attorney
222 West 7th Ave., #9, Rm. 253
Anchorage, AK 99513-7567
Phone: (907) 271-3379
Fax: (907) 271-2344
E-mail: gary.guarino@usdoj.gov
Alaska Bar No. 8209092

CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2011,
a copy of the foregoing **MOTION TO AMEND
CAPTION TO SUBSTITUTE AND NAME THE
UNITED STATES AS A PROPER DEFENDANT
FOR NORTON SOUND HEALTH CORPORATION,**
An Alaska Corporation was served electronically on:

Richard J. Helms

and via U.S. Mail on:

Bradley Logan, M.D.
13046 Race Track Rd. #242
Tampa, FL 33626

s/Gary M. Guarino

Helms v. Logan et al.

Case No. 3:11-cv-00062-TMB

3